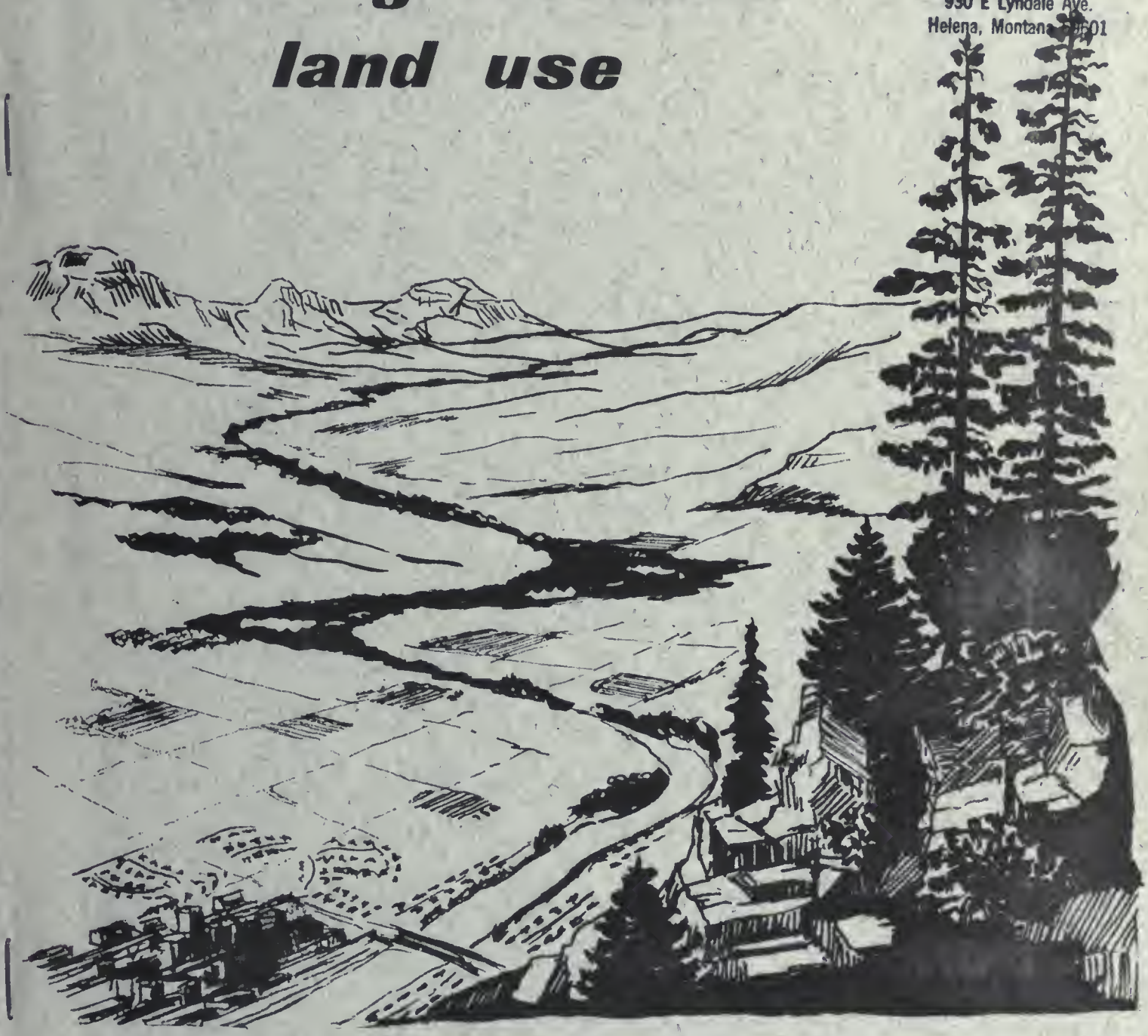
differential taxation and agricultural land use



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DIFFERENTIAL TAXATION AND AGRICULTURAL LAND USE

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INTRODUCTION

Differential taxation of agricultural land has been a controversial subject for a number of years, both in Montana and nationwide. Perhaps because of this, the Planning Division has received a steady flow of requests for Differential Taxation and Agricultural Land Use since it was first published in October, 1975. These requests have come from individuals, organizations, and government agencies in Montana and across the country. The paper has now been revised to reflect several events that have occurred in the past two years which have a bearing on the conclusions and recommendations contained in the earlier version, including the following:

- In an opinion issued on January 20, 1976, (Vol. 36, Op. No. 51) former Attorney General Robert Woodahl stated that the filing of a subdivision plat does not, by itself, justify the reclassification of land from "agricultural" to "residential" for taxation purposes. The Attorney General noted that land must be classified according to its present use and that land may continue in agricultural production even though a subdivision plat for it has been filed with the clerk and recorder. He concluded that if the use of the land meets statutory criteria for agricultural production (section 84-437.2, R.C.M. 1947) the filing of a subdivision plat can have no effect on the property's classification or tax assessment.

  Thus, if the filing of the subdivision plat does not constitute a change of use, in most cases it will be the purchaser who builds on a lot, and not the subdivider who sets the stage for the change in land use, who will find himself liable for the roll-back tax.

- In April, 1976 the President's Council on Environmental Quality published an exhaustive study of the effectiveness of differential taxation entitled Untaxing Open Space. The report's conclusions regarding the effectiveness of differential taxation were decidely negative.

- In January, 1977 the Montana Legislature considered and rejected two bills which would have amended the "Greenbelt Act."

In the five years since the passage of Montana's differential taxation law the problems with the act have become increasingly self-evident. A review of our earlier research, in light of the above events, led to four major conclusions regarding the operation of Montana's "Green Belt Law":

1) The current roll-back tax is ineffective as a deterrent to conversion of land from agricultural to development use.

2) The tax, following the attorney general's opinion, is inequitable in its application.

3) The tax works contrary to its presumed intent by penalizing preferable land use conversion and favoring less desirable conversion.

4) If the current law were strengthened, it would actually encourage undesirable conversion and poor development patterns, particularly "leapfrog" development.

As with our past research efforts regarding land use related legislation, the purpose of this analysis is to provide information to Montana's policy makers and the public concerning the operation of the differential taxation law and to evaluate its effectiveness in attaining the goals of the legislature. In a future publication we hope to examine an alternative technique for preservation of agricultural land: agricultural districting. According to a study prepared by the Montana Legislative Council for the 1976 Subcommittee on Agricultural Lands:

...agricultural districting seems to be one of the systems of preserving agricultural land that is best suited to Montana's needs....and may be the answer to Montana needs if preservation of agricultural land is to be one of its goals.

We invite your comments or questions regarding this publication.

Harold M. Price
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DIFFERENTIAL TAXATION AND AGRICULTURAL LAND USE

Introduction

Few subjects cause as much controversy as has the ad valorem (according to value) property taxation system which provides the financial support for local government and public schools throughout the United States. The property tax, it is variously charged, discriminates against the rich, the poor, the farmer, the urbanite, the home owner and the industrialist. Critics of the tax, who seem to represent almost every segment of society, would have us believe that it compels city dwellers to subsidize rural residents (and vice versa), industry and agriculture to subsidize mobile home residents, and so forth. State legislatures have responded to these criticisms by adopting a variety of alleviative measures, including so-called "circuit breaker" tax relief for senior citizens, preferential treatment for new industries, and tax incentives for the renovation of deteriorating buildings and blighted areas. Since the late 1950's a good deal of legislative attention has been focused on the application of the property tax to the agriculturalist with the result that over half of the 50 states, including, Montana, have enacted some form of differential, or use-value, assessment statute.

In many areas, particularly those adjacent to growing cities and

towns, there is a large differential between the value of land for agricultural use and for development use. In the absence of differential assessment, assessors are required by law to appraise land at its fair market value -- considering both agricultural and development values. Along the rural-urban fringe, assuming no de facto differential assessment (where assessors improperly hold appraised values at the agricultural level), appraised values will increase as development values increase. The tax bite grows, although the return to the farmer-rancher from his agricultural operation does not increase at a rate commensurate with the increase in land values. The farmer-rancher is caught in a financial squeeze, and when the rate of return becomes less than what he feels he must have from his investment, he will begin to look for a buyer. Differential assessment laws (frequently termed "greenbelt" or "green acres" acts) attempt to protect the farmer from this squeeze and, in doing so, to slow the rate of conversion of agricultural land to urban uses.

In simplest terms, differential assessment is a method of property valuation by which agricultural land, unlike other real property, is assessed not at its market value but at its value for agricultural purposes. Differential assessment laws fall into three categories: the first is simple preferential assessment; the second combines preferential assessment with a deferred taxation or "roll-back" tax or penalty when agricultural land is converted to other uses; and, under the third, preferential assessment is contingent on the indivi-

dual landowner's agreement to restrict development of his property.[1] Montana's "Greenbelt Act" (See Exhibit A) falls into the second category -- it has a roll-back tax which requires that when a property owner converts agricultural land to a non-agricultural use, he must pay the difference between the taxes paid on the property during the four years preceding the conversion and the taxes which would have been paid if the property had been taxed according to its market value during this four-year period.

The development of differential assessment laws appears to have been due primarily to the belief that the agricultural community was bearing a disproportionate share of the tax burden.[2] However, many advocates of the concept also believe that it responds to the broader and more important public need to preserve our food-producing resources. They argue that tax assessments based on market value are frequently so inflated by development and speculation pressures that they become a major factor in many decisions to convert productive

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[1] See, for instance, Montana's 1973 "Open Space and Voluntary Conservation Act" (Title 62, Chapter 6, R.C.M. 1947) which allows the owner of open space lands a reduction in his property tax for agreeing to certain limitations on the use of that land over a specified period of time.

[2] In 1963 the Montana Board of Equalization directed county assessors to use an assessment schedule for agricultural land based on productivity similar to the one now in use. Because of this action, from 1963 to 1973 farm and ranch land was assessed preferentially despite the existence of a conflicting section of state law requiring that all land be assessed at full cash value (section 84-401, R.C.M. 1947). Unlike many other states which had to amend their constitutions to permit differential assessment, both the 1889 Montana Constitution and the 1972 Constitution permit productive value assessment.

land to less desirable, non-agricultural uses. It is assumed, then, that by improving the economic climate for agricultural enterprise and, in the case of "roll-back" measures, by penalizing the conversion of farm land, differential assessment laws would encourage a better use of land. This view gained widespread popular support during the recent upsurge of concern about environmental matters and land use planning. It is the purpose of this paper to explore this assumption by examining the viability of Montana's differential assessment law and its roll-back tax as a technique for discouraging development of agricultural lands.

What Constitutes Agricultural Use?

Frequently, the most complex provision of a differential assessment statute is that which specifies what agricultural uses will qualify land for preferred tax treatment. This section determines the scope of the law's application and must be carefully drawn to exclude uses which are only incidental to the primary use of the land involved or which are intended to camouflage short-term speculative objectives. Accordingly, it often establishes a combination of eligibility criteria relating to such matters as the area, historical use, and productivity of the land and the proportion of the land owner's income derived from it.

The difficulty of developing satisfactory eligibility criteria for agricultural uses is well illustrated by the ponderous legislative evolution of Montana's differential assessment law. As originally

enacted in 1973 Montana's differential assessment law provided that land was entitled to use-value assessment if:

(1) it was actively devoted to agriculture;

(2) the area of the land was at least five acres and the gross value of grazing land and of field crops produced thereon combined with any payments received under a cropland retirement program totaled at least $1,000 per year; or

(3) its agricultural production accounted for 15 percent or more of the owner's annual gross income (Section 4, Chapter 512, Session Laws, 1973).

In 1974 the legislature refined these original criteria by specifying that land was "devoted to agriculture use" if: 1) it was used to produce crops including, but not limited to, grains, feed crops, fruits, or vegetables; 2) it was used for grazing; or 3) it was in a cropland retirement program. Additional 1974 amendments declared that land used to produce crops for home consumption, as well as commercial farm and ranch land, was entitled to differential assessment (Section 2, Chapter 56, Session Laws, 1974).

Finally, the eligibility section (Section 84-437.2, R.C.M. 1947) was amended by the 1975 Legislative Assembly (Section 1, Chapter 457, Session Laws, 1975) and in its present form reads as follows:

84-487.2 Eligibility of land for valuation as agricultural.

(1) Land which is actively devoted to agricultural use

shall be eligible for valuation, assessment and taxation as herein provided each year it meets either of the following qualifications:

(a) The area of such land is not less than five (5) continuous acres when measured in accordance with provisions of section 74-437.6, R.C.M. 1947, and it has been actively devoted to agricultural use during the last growing season and it continues to be actively devoted to agricultural use which means:

(i) it is used to produce field crops including, but not limited to, grains, feed crops, fruits, vegetables;

(ii) it is used for grazing, or

(iii) it is in a crop-land retirement program; or

(b) It agriculturally produces for sale or home consumption the equivalent of fifteen percent (15%) or more of the owners' annual gross income regardless of the number of contiguous acres in the ownership.

(2) Land shall not be classified or valued as agricultural if it is subdivided with stated restrictions prohibiting its use for agricultural purposes.

(3) The grazing on land by a horse or other animals kept as a hobby and not as part of a bona fide agricultural enterprise shall not be considered a bona fide agricultural operation.

Although all of the changes made since the law's enactment appear to be designed to narrow its application to only bona fide agricultural activities, it remains to be seen whether the present language achieves this purpose.

Why a "Roll-Back" Tax?

While preferential assessment of agricultural land undoubedly enhances the financial position of the farmer and rancher, most authorities agree that, by itself, it does not significantly influence decisions to convert agricultural land to non-agricultural

uses. Consequently, to discourage conversion of agricultural lands, many differential assessment statutes also impose a penalty for such conversion in the form of a "roll-back" tax. The Montana statute, for example, contains the following provisions:

> When land which is or has been in agricultural use and is or has been valued, assessed and taxed under the provisions of this act, is applied to a use other than agricultural, it shall be subject to an additional tax hereinafter referred to as the "roll-back tax," which tax shall be a lien upon the land and become due and payable at the time of the change in use.
>
> As used in this act, the word "roll-back" means the period preceding the change in the use of the land not to exceed four (4) years during which the land was valued, assessed and taxed under the provisions of this act (Section 84-437.4, R.C.M. 1947).

Evaluating Differential Assessment: Does the Roll-Back Tax Work?

Before looking in more detail at how the roll-back tax actually functions, we should consider it from the perspective of two tenents of sound land use planning:

1. Urban growth should be cost effective and land efficient while urban sprawl should be avoided.
2. Urban and industrial uses should occur on marginally productive land while the best food and fiber producing lands should be maintained in those uses.

If these goals are to be attained, then deterrents to use conversion (in this case differential assessment and the roll-back tax) should be enforced when conversion will contribute to urban sprawl and when

prime agricultural land is converted. Use conversion should not be penalized when the land area in question has marginal productivity and is in the path of urban growth. Paradoxically, Montana's law functions in direct opposition to both of these fundamentals. As will be illustrated below, this occurs essentially because the deterrent, the roll-back tax, is determined by subtracting the actual taxes paid at the agricultural value from those that would have been taxed on the basis of its market value. Four conclusions will emerge as we look closely at the functioning of the roll-back tax:

1) The current roll-back tax is ineffective as a deterrent to conversion of land from agricultural to development use.

2) The tax, following an attorney general's opinion, is inequitable in its application.

3) The tax works contrary to its presumed intent by penalizing preferable land use conversion and favoring less desirable conversion.

4) If the current law were strengthened, it would actually encourage undesirable conversion and poor development patterns, particularly "leapfrog" development. ("Leapfrog" urban expansion leaves unplanned gaps of vacant land between enclaves of residential, commercial or industrial development. It is undesirable because it fosters urban sprawl, promotes premature subdivision, encourages inefficient use of energy resources, and increase the cost of providing public services.)

Part of this incongruity between the intent and the function of the roll-back tax results from the interaction of two factors. First,

under the statute, the roll-back tax varies directly with the undeveloped market value of the land in question. Accordingly, the less valuable the land is for non-agricultural purposes, the lower the roll-back tax will be when it is taken out of agricultural production. Second, as a general rule, the farther land lies from an urban center, the less valuable it is for development purposes. (This relationship is less clear when land is desirable for second home or recreational development.) Thus, the statute tends to encourage the conversion of land located at a distance from existing urban areas and to discourage urbanization of land adjacent to cities and towns. The following example illustrates this incongruity:

Example 1

Assumptions:

-- Two parcels of agricultural land are equally productive. Both are mediocre grazing land.

-- The first is located adjacent to a growing city and has all necessary elements which give it a good market value -- sewer and water hookups will be simple; roads are good. Assuming need, it should be developed. The second parcel is 5 to 10 miles from town and if it is converted it will contribute to an urban sprawl situation.

Taxes/Agricultural Value - Mediocre Grazing Land

$5.00/acre (assessed agricultural value)[3]	x	.30[4] (taxable value rate)	=	$1.50/acre (taxable value)
$1.50/acre (taxable value)	x	.128 (mill levy)	=	$ .19/acre (property taxes)

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[3] Again, under differential assessment, agricultural land is assessed at its agricultural value rather than its market value. This agricultural assessment is made under the Montana Agricultural Land Classification System.

[4] By statute the assessed value of non-agricultural (or non-mining) land has been 40% of its full cash market value. (Section 84-401, R.C.M. 1947.) Taxable value has been 30% of the assessed value. (Sections 84-301 and 84-302, R.C.M. 1947.) Following the inauguration of the uniform statewide reappraisial system, the 1977 Legislature instituted several changes to the assessment system. These changes are in the process of being implemented by the Department of Revenue. Because the transition is not yet complete, the examples given here continue to use the earlier system. Two basic elements of the change are that (a) for most non-agricultural lands, assessed value will equal 100% rather than 40% of the market value (see 84-301.2, R.C.M. 1947) and (b) the taxable value rate will be established according to a schedule specified in section 84-309, R.C.M. 1947, which relates the taxable value rate to the statewide percentage of increase in market value, when the latter has been certified by the director of revenue (which will be done before June 30, 1978). Rather than being assessed at market value, agricultural land will continue to be assessed at its productive capacity, in accordance with the Montana Agricultural Land Classification System. The tax rate on agricultural land is fixed by law at 30% of its assessed rate. (Section 84-301.7, R.C.M. 1947; see also 84-401(5)(d), 84-401(7), 84-437.1 through 84-437.3 concerning the valuation of agricultural land.) Department of Revenue officals do not anticipate that this change in the taxation formula will have any significant impact on the relative amounts of tax penalities accruing from the roll-back provision.

Taxes/Market Value - Parcel near town

$5,000/acre (taxable value)	x	.40 (assessment rate)	=	$2,000/acre (assessed value)
$2,000/acre (assessed value)	x	.30 (taxable value rate)	=	$600/acre (taxable value)
$600/acre (taxable value)	x	.128 (mill levy)	=	$76.80/acre (property taxes)

Taxes/Market Value - Parcel 5-10 miles from town

$1,000/acre (market value)	x	.40 (assessment rate)	=	$400/acre (assessed value)
$400/acre (assessed value)	x	.30 (taxable value rate)	=	$120/acre (taxable value)
$120/acre (taxable value)	x	.128 (mill levy)	=	$15.36/acre (property taxes)

Roll-back penalty per acre, per year:

Near Town	In Country
$76.80 Market Value	$15.36 Market Value
- .19 Ag Value	- .19 Ag Value
$76.51/acre penalty	$15.17/acre penalty

Result:

The tax penalty on the parcel that should be developed is five times larger than on the parcel that should not be developed.

Conclusion:

The current law tends to encourage rather than discourage poor land use practices.

Another, even more serious weakness of the Montana law from the standpoint of land use planning arises from the fact that its roll-back is determined by subtracting actual taxes assessed according to the agricultural value of the land in question from the taxes that would have been assessed at its undeveloped market value. Because agricultural taxes are higher for productive land than for poor land, the paradoxical result of this system is that, all things being equal, the greater the value of the land for agriculture, the lower the roll-back tax will be when the land is taken out of production. Although it was clearly not the intention of the legislature to penalize the conversion of marginal land more harshly than the conversion of prime land, this is the effect of the statute. The following example illustrates this problem:

Example 2

Assumptions:

-- Two parcels of agricultural land are adjacent to each other, each with the same development value ($1,000/acre).

-- One is top grade cropland and the other is mediocre grazing land.

Taxes at Market Value

$1,000/acre (market value)	x	.40 (assessment rate)	=	$400/acre (assessed value)

$400/acre (assessed value)	x	.30 (taxable value rate)	=	$120/acre (taxable value)
$120/acre (taxable value)	x	.128 (mill levy)	=	$15.36/acre (property tax)

Taxes/Agricultural Value - Top Grade Cropland

$100/acre (assessed agricultural value)	x	.30 (taxable rate value)	=	$30.00/acre (taxable value)
$30.00/acre (taxable value)	x	.128 (mill levy)	=	$3.84/acre (property tax)

Taxes/Agricultural value - Mediocre Grazing Land

$5.00/acre (assessed agricultural value)	x	.30 (taxable rate value)	=	$1.50/acre (taxable value)
$1.50/acre (taxable value)	x	.128 (mill levy)	=	$ .19/acre (property tax)

Roll-back penalty per acre, per year:

Top Cropland	Marginal Grazing
$15.36 Market Value	$15.36 Market Value
-3.84 Ag Value	- .19 Ag Value
$11.52/acre penalty	$15.17/acre penalty

Result:

The difference between the roll-back tax on mediocre grazing and top cropland is $3.65 per acre per year, which means; the roll-back tax is 25% higher on the mediocre grazing land than it is on the top grade cropland.

Conclusion:

Contrary to its intent, the current law penalizes conversion

of mediocre agricultural land in comparison to conversion of more productive agricultural land and encourages rather than discourages poor land use practices.

In some ways the most basic question raised by critics of Montana's law is whether a four-year roll back tax can be effective in deterring the conversion of agricultural land to non-agricultural use. The following hypothetical example, based on current market conditions and assessment rates, suggests that the impact of Montana's roll-back tax on land use will be negligible:

Example 3

A parcel of irrigated farm land located within five miles of Billings, Montana, may have a market value of $2,000 per acre and an assessed value for agricultural use of $75 per acre. With a county mill levy of .128 this parcel is taxed under the differential assessment law as follows:

$75/acre (assessed agricultural value)	x	.30 (taxable value rate)	=	$22.50/acre (taxable value)
$22.50/acre (taxable value)	x	.128 (mill levy)	=	$2.88/acre (property tax)

If this parcel were assessed according to its market value, the property tax would be computed as follows:

$2,000/acre (market value)	x	.40 (assessment rate)	=	$800/acre (assessed value)
$800/acre (assessed value)	x	.30 (taxable value rate)	=	$240/acre (taxable value)
$240/acre (taxable value)	x	.128 (mill levy)	=	$30.72/acre (property tax)

If this parcel were converted to non-agricultural use, the roll-back tax would be calculated as follows:

$30.72/acre (tax based on market value)	-	$2.88/acre (agricultural land tax under differential assessment law)	x	4 (four year roll-back)	=	$111.36/acre (roll-back tax)

Assuming that a land speculator who acquired this land for $2,000 per acre will expect to invest $2,000 per acre in development cost and sell the subdivided lots for $6,000 per acre,[5] it seems unlikely that an additional charge of $111.36 per acre will significantly affect the marketability of the lots or the decision to subdivide the land.

Conclusion:

The current law is probably ineffective in achieving its

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[5] A one-third acquisition cost, one-third development cost, one-third profit margin rule of thumb is commonly employed by land development interests to assess the economic feasibility of a proposed project. The guideline is used here for illustrative purposes only and may not accurately reflect actual investment or profit expectations.

land use purpose.

From the perspective of good land use, the law has a related deficiency which we have just touched on: it applies indiscriminately to all land which meets its broad eligibility criteria without regard to location or quality, or to the presence or absence of development pressure on the land. Few would argue that productive agricultural land should be protected from development. The law, however, does not provide either a requirement or a mechanism by which to distinguish productive from marginal land and to develop methods of discouraging development of the former. Partly because it lacks this important land use planning element, Montana's differential assessment law provides tax windfalls to owners of property in areas where there is no development pressure and penalizes development of land which may be best suited for urban growth.

An additional difficulty arises from a 1976 ruling by former Attorney General Robert Woodahl.[6] The roll-back tax is viewed as a means of recapturing the tax benefit granted by differential assessment, when the purpose for which the benefit was granted is not accomplished. This appears to be a most equitable arrangement; however, it is only equitable if the person who received the benefit pays the roll-back tax. In an opinion issued on January 20, 1976, the Attorney General ruled that the filing of a subdivision plat does not, by itself, justify the reclassification of land from

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[6] Volume 36, Opinion Number 51

"agricultural" to "residential" for taxation purposes. The Attorney General noted that land must be classified according to its present use and that land may continue in agricultural production even though a subdivision plat for it has been filed with the clerk and recorder. He concluded that if the use of the land meets statutory criteria for agricultural production the filing of a subdivision plat can have no effect on the property's classification or tax assessment. Thus, it is only when actual physical change in use occurs that the roll-back tax is applied. The Attorney General's opinion means that, in most cases, it is the lot buyer, when he builds his house, who is liable for the tax penalty, rather than the subdivider who actually initiated the land use change.[7] The practical result of this interpretation is that the law does not recapture taxes from those who receive the benefits. Instead the subdivider receives a tax benefit at the lot buyer's expense. The roll-back creates a hidden cost for the land buyer who in most cases is probably not aware that he will be liable for a tax penalty when he purchases his property. Rather than discouraging premature and speculative land development, under this Attorney General's opinion, Montana's differential assessment law may actually be creating a tax shelter for subdividers. The Attorney General's interpretation not only effectively neutralizes any deterrent effect the law might have had on subdivision of agricultural land but it

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[7] Section 84-437.2, R.C.M. 1947. The provision is being implemented (some 350 cases in Gallatin County alone in 1977 and predictably a number of tax appeals are being made before the county tax appeals board.) At the time of this writing 22 appeals are pending before the State Tax Appeal Board, most of them lot buyers subject to an unanticipated tax against their recently purchased property.

renders the law inequitable as well.[8]

What Might Be Done?

If, as it appears, it is true that Montana's differential assessment statute not only fails to encourage proper land use decisions but also is at odds with accepted land use planning principles and if it is indeed inequitable in its application, what can be done to remedy the situation? At first glance, one obvious solution to the ineffectiveness of the law (see Example 3), would seem to be to increase the roll-back period until the resulting tax is large enough to price converted agricultural land out of the market. Advocates of this approach believe that a 10-year penalty is necessary to achieve the act's land use objectives and, during both the 1974 and 1975 legislative sessions, they attempted, unsuccessfully, to extend Montana's roll-back by six years. These efforts were based on the erroneous assumption that, if it could be strengthened, the present Montana act would favorably influence land use in the state. Unfortunately, as has been illustrated above, there is convincing evidence to suggest that the opposite is true -- that if the existing statute were "given teeth," it would encourage the development of Montana's best agricultural land and contribute to inefficient "leapfrog" development. Therefore, a simple increase of the term

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[8] There is also growing evidence nationally that differential assessment is marginally effective in meeting its land use objectives. See Exhibit B.

of the present roll-back provision must be rejected as simplistic and counterproductive.

Next, although it may be possible to devise an appropriate definition of "subdivided" in order to resolve the inequity resulting from the Attorney General's opinion, the other problems remain. To deal with them, it may be desirable, first, to segregate the law's objective of reducing the tax burden of farmers and ranchers from its land use function by addressing these two concerns in separate statutes. This would allow the preferential tax treatment of agricultural lands, assuming that this is desirable, without regard to the relationship among roll-back provisions, productivity of land, and development pressures. Taking these factors into account, any land use statute should apply selectively only to that agricultural land whose protection is warranted by its productivity, strategic location, or other social significance. Finally, the penalty for removing designated land from agricultural production should be strengthened and restructured, perhaps by relating it to the income attributable to the conversion and, in doing so, by defining more precisely when conversion occurs. In the alternative, conversion of land could be prohibited outright, which, of course, raises other issues.

One technique utilized for the preservation of agricultural lands is agricultural districting; this responds to the concerns expressed above and seems particularly well suited to the task of preserving Montana's agricultural land base. This approach, which has been

adopted in different forms by California, New York, and Oregon, combines features of traditional planning and zoning with those of differential assessment statutes. Under this hybrid system local governing bodies (and, in the case of New York, the state) may create districts in which the conversion of land to non-agricultural use is prohibited.[9] The formation of these districts may be initiated by property owners or by the designating governmental agency, but in either case it must conform to a comprehensive plan for the affected area. Once land has been included in an agricultural district, it is entitled to use-value property tax assessment and, under the New York and Oregon laws, is exempt from special levies for sewer and water districts.

Because agricultural districting is selective in its application and provides positive control over land use through zoning, it overcomes the weaknesses of standard differential assessment while incorporating the benefits of use-value taxation. However, the citizens of Montana and their elected representatives are unlikely to embrace this or any other effective device for preserving productive agricultural land until they become convinced that the vitality of the state's agricultural industry is actually being threatened by the unchecked erosion of our land resource.[10] The continued preeminence of the agricultural industry is essential if Montana is to achieve

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[9] The weak New York statute, which relies solely on economic incentives, simply provides for a five year roll-back penalty in the event that land is converted to another use.

[10] Two bills introduced during the 1977 legislative session would have amended Montana's "Greenbelt Act." Both were defeated. See Exhibits C through F.

many of its stated social, economic, and environmental goals. Thus, it is imperative that the state recognize the deficiencies of its present approach to agricultural land preservation and take the actions necessary to remedy these inadequacies.

Sections 84-437.1 through 84-437.17, R.C.M. 1947
Montana's "Greenbelt Act"

84-429.15. Equalization of valuations. The same method of appraisal and assessment shall be used in each county of the state to the end that comparable property with similar true market values and subject to taxation in Montana shall have substantially equal taxable values at the end of each cyclical revaluation program hereinbefore provided.

History: En. 84-429.15 by Sec. 2, Ch. 294, L. 1975.

84-429.16. Use of valuations. No program for the revaluation of property shall be implemented for taxation in any county, other than as prescribed in this act.

History: En. 84-429.16 by Sec. 3, Ch. 291, L. 1975.

84-429.17. Act supplemental. This act is intended to be supplementary to and is not intended to repeal section 84-429.12, R. C. M. 1947.

History: En. 84-429.17 by Sec. 4, Ch. 294, L. 1975.

Separability Clause

Section 5 of Ch. 294, Laws 1975 read "If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one (1) or more of its applications the part remains in effect in all valid applications that are severable from the invalid applications."

84-437.1. Legislative intent as to agricultural property. Since the market value of many farm properties is based upon speculative purchases which do not reflect the productive capability of farms, it is the legislative intent that bona fide farm properties shall be classified and assessed at a value that is exclusive of values attributed to urban influences or speculative purposes.

History: En. Sec. 1, Ch. 512, L. 1973.

Title of Act

An act to provide that agricultural land shall be classified, appraised, and assessed according to its value for agricultural purposes without regard to the value it may have for other purposes; and defining agricultural lands, establishing procedure and providing a penalty; amending sections 84-401 and 84-429.12, R. C. M. 1947.

84-437.2. Eligibility of land for valuation as agricultural. (1) Land which is actively devoted to agricultural use shall be eligible for valuation, assessment and taxation as herein provided each year it meets either of the following qualifications:

(a) The area of such land is not less than five (5) contiguous acres when measured in accordance with provisions of section 84-437.6, R. C. M. 1947, and it has been actively devoted to agriculture during the last growing season and it continues to be actively devoted to agricultural use which means;

(i) it is used to produce field crops including, but not limited to, grains, feed crops, fruits, vegetables; or

(ii) it is used for grazing; or

(iii) it is in a crop-land retirement program; or

(b) It agriculturally produces for sale or home consumption the equivalent of fifteen per cent (15%) or more of the owners' annual gross income regardless of the number of contiguous acres in the ownership.

(2) Land shall not be classified or valued as agricultural if it is subdivided with stated restrictions prohibiting its use for agricultural purposes.

(3) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise shall not be considered a bona fide agricultural operation.

History: En. Sec. 4, Ch. 512, L. 1973; amd. Sec. 2, Ch. 56, L. 1974; amd. Sec. 1, Ch. 457, L. 1975.

Amendments

The 1974 amendment inserted "any of" following "it meets" in the introductory phrase; expanded subdivision (1) which read: "It is being actively devoted to agriculture"; substituted "value of grazing or crops produced for sale or home consumption" for "value of grazing and field crops" in subdivision (2); inserted "for sale or home consumption" in subdivision (3); and deleted a subdivision pertaining to the application by the owner of land for valuation as agricultural.

The 1975 amendment designated the first paragraph as subsection (1); redesignated former subdivision (1) as subdivision (1)(a); substituted present subdivision (1)(a) for "It is being actively devoted to agriculture or it has been historically devoted to agricultural use and it has been valued and assessed as agricultural land for the taxable years 1971, 1972 and 1973 and it continues to be devoted to agricultural use which means"; redesignated former subdivisions (a) to (c) as (i) to (iii) of subdivision (1)(a); in subdivision (i) inserted "field" before "crops"; deleted a former subsection (2) which read "The area of such land is not less than five (5) contiguous acres when measured in accordance with the provisions of section 8, [84-437.6], when the gross value of grazing or crops produced for sale or home consumption thereon together with any payments received under a crop-land retirement program totals at least one thousand ($1,000) per year; or"; redesignated former subdivision (3) as subdivision (1)(b); added "regardless of the number of contiguous acres in the ownership" at the end of subdivision (1)(b); added subsections (2) and (3); and made minor changes in phraseology.

84-437.3. Agricultural uses only considered in valuation. In valuing land as agricultural, the department of revenue, shall consider only those indicia of value which such land has for agricultural use.

History: En. Sec. 5, Ch. 512, L. 1973; amd. Sec. 3, Ch. 56, L. 1974.

Amendments

The 1974 amendment substituted "In valuing land as agricultural" for "In classifying land which qualifies as land actively devoted to agricultural use under the test prescribed by this act, and as to which the owner thereof has made timely application for valuation, assessment and taxation hereunder for the tax year in issue" at the beginning of the section.

84-437.4. Roll-back tax—computation. When land which is or has been in agricultural use and is or has been valued, assessed and taxed under the provisions of this act, is applied to a use other than agricultural, it shall be subject to an additional tax hereinafter referred to as the "roll-back tax," which tax shall be a lien upon the land and become due and payable at the time of the change in use.

As used in this act, the word "roll-back" means the period preceding the change in use of the land not to exceed four (4) years during which the land was valued, assessed and taxed under the provisions of this act.

The assessor shall ascertain the following in determining the amount of the roll-back tax chargeable on land which has undergone a change in use:

(1) the full and fair value of the land as determined by the department of revenue under the valuation standard applicable to land in the county not valued, assessed and taxed under the provisions of this act;

(2) the amount of the land assessment as unsubdivided and un-

improved land for the period of the roll-back, by multiplying such full and fair market value by the number of years included in the roll-back and by multiplying the product obtained, by the assessment ratio in effect in the year in which the change in use of the land is made as determined by the state;

(3) the average mill levy applied in the taxing district in which the land is located by dividing the aggregate mill levy actually applied in each respective year of the roll-back by the number of years, included in the roll-back; and

(4) the amount of the roll-back tax by multiplying the taxable value computed from the amount of the assessment determined under subsection (2) hereof by the average mill levy determined under subsection (3) hereof, less the amount of real property taxes actually paid during the period of the roll-back.

History: En. Sec. 6, Ch. 512, L. 1973.

84-437.5. Roll-back tax procedures governed by nonagricultural provisions. The assessment of the roll-back tax imposed by 84-437.4, the attachment of the lien for such taxes, and the right of the owner or other interested party to review any judgment of the department of revenue or local tax appeal board affecting such roll-back tax shall be governed by the procedures provided for the assessment and taxation of real property not valued, assessed, and taxed under the provisions of this act. The roll-back tax collected shall be paid into the county treasury and paid by the treasurer to the various taxing units pro rata in accordance with the levies for the current year.

History: En. Sec. 7, Ch. 512, L. 1973; amd. Sec. 4, Ch. 126, L. 1977.

Amendments

The 1977 amendment substituted "84-437.4" for "section 5" near the beginning of the first sentence; and made minor changes in punctuation.

84-437.6. Improvements on agricultural land. In determining the total area of land actively devoted to agricultural use there shall be included the area of all land under barns, sheds, silos, cribs, greenhouses and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities.

History: En. Sec. 8, Ch. 512, L. 1973; amd. Sec. 2, Ch. 457, L. 1975.

Amendments

The 1975 amendment deleted "but land under and such additional land as may be actually used in connection with the farmhouse shall be excluded in determining such total area" at the end of the section.

84-437.7. Repealed.

Repeal

Section 84-437.7 (En. Sec. 9, Ch. 512, L. 1973), relating to the application for valuation as agricultural land, was repealed by Sec. 6, Ch. 56, Laws 1974.

84-437.8. Continuance of valuation as agricultural land—roll-back tax attaching on change of use. Continuance of valuation, assessment and taxation under this act shall depend upon continuance of the land in agricultural use and compliance with the other requirements of this act

and not upon continuance in the same owner of title to the land. Liability to the roll-back tax shall attach when a change in use of the land occurs but not when a change in ownership of the title takes place if the new owner continues the land in agricultural use, under the conditions prescribed in this act.

History: En. Sec. 10, Ch. 512, L. 1973.

84-437.9. Roll-back tax on change of use of part of tract. Separation or split off of a part of the land which is being valued, assessed and taxed under this act, either by conveyance or other actions of the owner of such land, for a use other than agricultural, shall subject the land so separated to liability for the roll back tax applicable thereto, but shall not impair the right of the remaining land to continuance of valuation, assessment and taxation hereunder, provided it meets the minimum requirements of this act.

History: En. Sec. 11, Ch. 512, L. 1973.

84-437.10. Agricultural land taken under eminent domain. The taking of land which is being valued, assessed and taxed under this act by right of eminent domain shall not subject the land so taken to the roll-back tax herein imposed.

History: En. Sec. 12, Ch. 512, L. 1973.

84-437.11. Tract crossing county line considered as whole. Where contiguous land in agricultural use in one ownership is located in more than one (1) county, compliance with the minimum requirements shall be determined on the basis of the total area and value of farm crops on such land and not the area or value of farm crops on land which is located in the particular county.

History: En. Sec. 13, Ch. 512, L. 1973.

84-437.12. Factual details as to agricultural land to be shown on tax list. The factual details to be shown on the assessor's tax list and duplicate with respect to land which is being valued, assessed and taxed under this act shall be the same as those set forth by the assessor with respect to other taxable property in the county.

History: En. Sec. 14, Ch. 512, L. 1973.

84-437.13. Rules—regulations—forms. The state department of revenue is empowered to promulgate such rules and regulations and to prescribe such forms as it shall deem necessary to effectuate the purposes of this act.

History: En. Sec. 15, Ch. 512, L. 1973.

84-437.14. Violation as misdemeanor. Any person who violates any provision of this act shall be guilty of a misdemeanor.

History: En. Sec. 16, Ch. 512, L. 1973.

84-437.15. Reclassification by department of revenue. The department of revenue or its agent may reclassify land as nonagricultural upon giving

due notice to the property owner under the provisions of section 84-429.11. Upon notice of a change in classification of land from agricultural to another use, the property owner may petition the department of revenue to reclassify the land as agricultural by completing a form prescribed by the department of revenue and by producing whatever information is necessary to prove that the subject land meets th definition of agricultural land embodied in section 84-437.2, R. C. M. 1947.

History: En. 84-437.15 by Sec. 4, Ch. 56, L. 1974.

Title of Act

An act amending sections 84-401, 84-437.2, 84-437.3, R. C. M. 1947, to provide that agricultural land shall be classified, appraised, and assessed according to its value for agricultural purposes; repealing section 84-437.7; providing an effective date; and to provide a refund for all late application penalties collected under subsection (4)(a) of section 84-437.2, R. C. M. 1947, as it was before these amendments.

84-437.16. **Reclassification by owner.** Whenever land which is or has been in agricultural use and is or has been valued, assessed and taxed for agricultural use is applied to a use other than agricultural, the owner shall notify the county assessor and the county assessor shall cause the following statement to be recorded by the county recorder: "On the ..... day of ....., 19....., this land became subject to the roll-back tax imposed by section 84-437.4."

History: En. 84-437.16 by Sec. 5, Ch. 56, L. 1974.

Repealing Clause

Section 6 of Ch. 56, Laws 1974 read: "Section 84-437.7 is repealed."

84-437.17. **Refund of late filing fee.** The county commissioners shall refund twenty-five dollars ($25) to each person who paid a late filing fee under the provisions of section 84-437.2(4)(a), R. C. M. 1947.

History: En. 84-437.17 by Sec. 7, Ch. 56, L. 1974.

Compiler's Notes

Section 84-437.2(4)(a) referred to in this section was deleted by the 1974 amendment of Sec. 84-437.2. The subdivision read "Application by the owner of the land for valuation hereunder is submitted on or before October 1 of the year immediately preceding the tax year to the county assessor in which such land is situated on the form prescribed by the state department of revenue. The county assessor shall continue to accept applications filed within sixty (60) days after October 1 upon payment of a late filing fee in the amount of twenty-five dollars ($25), which shall be paid to the county treasurer."

Effective Date

Section 8 of Ch. 56, Laws 1974 provided the act should be in effect from and after its passage and approval. Approved February 28, 1974.

84-439. (2033) **Property concealed, misrepresented, etc.** Any property willfully concealed, removed, transferred, or misrepresented by the owner or agent thereof to evade taxation, upon discovery, must be assessed at not exceeding ten times its value, and the assessment so made must not be reduced by the county tax appeal board.

History: Ap. p. Sec. 33, p. 84, L. 1891; amd. Sec. 3722, Pol. C. 1895; re-en. Sec. 2541, Rev. C. 1907; re-en. Sec. 2033, R. C. M. 1921; amd. Sec. 18, Ch. 405, L. 1973. Cal. Pol. C. Sec. 3648.

Amendments

The 1973 amendment substituted "county tax appeal board" for "board of county commissioners" at the end of the section.

84-440. (2035) **Repealed.**

Repeal

Section 84-440 (Ap. p. Sec. 33, p. 84, L. 1891; Sec. 19, Ch. 405, L. 1973), relating to property which escaped assessment, was repealed by Sec. 11, Ch. 155, Laws 1977.

Exhibit B

The following is an excerpt from Chapter VI, "Conclusions and Recommendations - Effectiveness in Maintaining Current Land Use" in Untaxing Open Space: An Evaluation of the Effectiveness of Differential Assessment of Farms and Open Space, which was prepared by the Regional Science Research Institute for the U.S. Council on Environmental Quality and published by the Government Printing Office in April, 1976. The 401 page study is the most definitive study of differential assessment to date:

> With respect to the goal of retarding the conversion of farm and other open land, differential assessment is marginally effective and its cost in terms of tax expenditures is high, in most cases so high as to render it an undesirable tool for achieving this goal. It has its principal effect on the supply of land which is put on the market by reducing the farmer's costs of production and thus increasing the profitability of farming. It has no effect on the decision to sell for non-economic reasons, such as retirement or death. It also has no effect on the major component of the demand for conversion of land -- accessibility to growing urban centers. It may even cause effective demand to increase, since developers will be willing to bid more for land, realizing that as long as they keep it in approved uses, their carrying costs will be lower.
>
> Taking these points in more detail, we note that if an owner wants to keep his land in open uses, but finds this is financially difficult, the savings from differential taxation may prove critical in enabling him to attain his goal.
>
> But if the owner is indifferent, is influenced in his decision to sell by non-economic factors, or is actively looking for an opportunity to sell to a developer, the tax savings from differential assessment will not have much effect in deterring hin from selling.
>
> Moreoever, if the owner has made his living by farming the land, he may wish to sell when he grows older so that he will be able to retire. Future tax savings then will be

of little consideration to him. Also when the owner dies, and does not have an heir who wants to continue the property in its current use, it will probably be sold on the market to the highest bidder.

Whenever land is sold on the open market, the type of buyer will be determined primarily by the potential of the land for development and for agricultural production....Except in strongly rural areas, urban uses can almost always outbid agricultural uses, no matter how efficient and productive. Tax savings will not be enough to make a difference. In addition, the ability to continue farming in the face of expanding urbanization could also be hampered by other factors, such as encroachment of urban activity.

Therefore, preferential assessment is likely to make a difference in the rate of conversion to urban use primarily for land that is in the hands of owners who either want to maintain a country home, or those relatively young farmers who want to continue to farm, and are in a location where farming is not impeded by urban neighbors.

For these people the tax savings may be large enough to enable them to maintain their land in an eligible use. Such people in such situations constitute a small portion of all those who are likely to sell their land. Since, in addition, a small percent of all farm sales result in conversion to urban uses anyway, we must conclude that differential assessment will change the outcome in a small number of cases -- certainly no higher than 10% of all potential sales.

Thus, except in certain circumstances, we conclude that differential assessment is not very effective in maintaining current use in urban areas, even in the short run. In the long run, death and retirement will bring almost all properties on the open market, and, as a rule, the demand for land for urban uses will increase. In this longer run perspective, differential assessment is of little significance in maintaining farm or other open uses.... Furthermore, we find that even if the marginal effectiveness of differential assessment were considered to be sufficient as a short-term holding action, its expense in tax expenditures is so high as to render it an inefficient means for achieving such retardation of land conversion as it does.

45th Legislature HB 0398/03

Taxation

Do Not Pass as Amended

Objection Raised to
Adverse Committee Report

HOUSE BILL NO. 398

INTRODUCED BY FABREGA, MOORE, O'CONNELL, TROPILA

A BILL FOR AN ACT ENTITLED: "AN ACT TO REPEAL SECTIONS 84-437.4 THROUGH 84-437.6 84-437.5 AND 84-437.8 THROUGH 84-437.10, R.C.M. 1947, AND TO AMEND SECTION 84-437.16, R.C.M. 1947, RELATING TO ROLLBACK TAXATION PROCEDURES FOR AGRICULTURAL LAND."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Repealer. Sections 84-437.4 through 84-437.6 84-437.5 and 84-437.8 through 84-437.10, R.C.M. 1947, are repealed.

SECTION 2. SECTION 84-437.16, R.C.M. 1947, IS AMENDED TO READ AS FOLLOWS:

"84-437.16. Reclassification by owner. Whenever land which is or has been in agricultural use and is or has been valued, assessed and taxed for agricultural use is applied to a use other than agricultural, the owner shall notify the county assessor and the county assessor shall cause the following statement to be recorded by the county recorder: "On the ..... day of ....., 19..., this land became subject to the roll-back tax imposed by section 84-437.4.""

-End-

SECOND READING

Exhibit C

House Bill 398, introduced by Representative W. Jay Frabrega of Great Falls, would have repealed the roll-back tax provision of Montana's "Greenbelt Act." The passage of H.B. 398 would have made the law simply a preferential assessment statute. (See page 2). The bill received an adverse report from the House Taxation Committee and was killed on second reading April 2, 1977.

Approved by Committee
on Natural Resources

1 H BILL NO. 550
2 INTRODUCED BY Vincent Mehoy
3 BY REQUEST OF THE DEPARTMENT OF COMMUNITY AFFAIRS
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT
6 SUBDIVIDED LAND MAY NOT BE ASSESSED AS AGRICULTURAL LAND;
7 PROVIDING FOR APPLICATION FOR CLASSIFICATION OF CERTAIN
8 PARCELS OF LAND AS AGRICULTURAL; AMENDING SECTION 84-437.2,
9 R.C.M. 1947; AND REPEALING SECTION 84-437.17, R.C.M. 1947."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 Section 1. Section 84-437.2, R.C.M. 1947, is amended
13 to read as follows:
14 "84-437.2. Eligibility of land for valuation as
15 agricultural. (1) Land which is actively devoted to
16 agricultural use shall be eligible for valuation,
17 assessment and taxation as herein provided each year it
18 meets either of the following qualifications:
19 (a) The area of such land is not less than five (5)
20 contiguous acres when measured in accordance with provisions
21 of section 84-437.6, R.C.M. 1947, and it has been actively
22 devoted to agriculture during the last growing season and it
23 continues to be actively devoted to agricultural use which
24 means:
25 (i) it is used to produce field crops including, but

1 not limited to, grains, feed crops, fruits, vegetables; or
2 (ii) it is used for grazing; or
3 (iii) it is in a crop-land retirement program; or
4 (b) It agriculturally produces for sale or home
5 consumption the equivalent of fifteen percent (15%) or more
6 of the owners' annual gross income regardless of the number
7 of contiguous acres in the ownership.
8 (2) Land ~~shall not be classified or valued as~~
9 ~~agricultural if it is subdivided with stated restrictions~~
10 ~~prohibiting its use for agricultural purposes~~ for which a
11 subdivision plat has been filed with the county clerk and
12 recorder pursuant to 11-3859 through 11-3870 may not be
13 classified or valued as agricultural, and this land is
14 considered to be applied to a use other than agricultural.
15 (3) The grazing on land by a horse or other animals
16 kept as a hobby and not as a part of a bona fide
17 agricultural enterprise shall not be considered a bona fide
18 agricultural operation.
19 (4) (a) Before a parcel of land containing 40 acres or
20 less may be assessed as agricultural land, the owner must
21 on or before October 1 of each year, apply to the county
22 assessor for agricultural assessment on a form prescribed by
23 the department of revenue. The assessor shall classify the
24 parcel as agricultural if it meets the criteria established
25 by this section.

HB 550

Exhibit D

30

House Bill 550, introduced by Representative John C. Vincent of Bozeman, would have amended Montana's differential assessment act to assure that subdivided land could not be assessed as agricultural land. The bill received a favorable report from the House Committee on Natural Resources but was killed on second reading on February 25, 1977, by a vote of 71 to 26.

(b) The county assessor shall continue to accept applications filed within 60 days after October 1 upon payment of a late filing fee in the amount of $25. The late filing fee shall be paid to the county treasurer.

(c) Whenever land which has been assessed as agricultural land is divided into parcels, some or all of which are 40 acres or less, and the owner of a parcel which is 40 acres or less does not apply for agricultural assessment as provided in this section, the county assessor shall reassess that parcel which is 40 acres or less as nonagricultural land.

(5) A parcel of 40 acres or less which has been classified as nonagricultural due to a failure of the owner to apply for agricultural assessment pursuant to subsection (4) is not subject to the rollback tax until the land is applied to a use other than agricultural."

Section 2. Repealer. Section 84-437.17, R.C.M. 1947, is repealed.

-End-

Exhibit E

DCA/Planning Division Comments on H.B. 550

Prepared for House Committee on Natural Resources

February, 1977

BACKGROUND AND EFFECT OF HOUSE BILL 550

Montana's "Green Belt Act" provides that when agricultural land is converted to a non-agricultural use the land shall be subject to a four year roll-back tax. The question of when agricultural land is converted was answered by a 1976 Attorney General's Opinion* which held that subdivision lots may be classified and assessed as agricultural lands until the use actually changes (that is, a home is built).

This opinion created two unfortunate results. First, it means that the roll-back tax is paid by the lot buyer when he builds a house, rather than by the subdivider, who actually initiated the land use change. Thus, any effect which the Green Belt law may have had on discouraging the conversion of agricultural land is lost.

Secondly, assessing subdivision lots as agricultural land creates a tax shelter for land developers and actually encourages speculative and premature land development -- accelerating the loss of agricultural land and often resulting in unplanned and disorderly development. Because the subdivider initiates the change in land use he should not be entitled to a tax benefit at the lot buyer's expense.

H.B. 550 reverses the effect of the Attorney General's Opinion by requiring that platted subdivision lots and parcels 20 acres or

* A.G. Opinion Vol. No. 36, Opinion 51

less (created as exemptions under the subdivision law) be classified as non-agricultural, beginning when they are created by the filing of a survey. Thus, the subdivider pays the roll-back tax for converting agricultural land, not the (often unsuspecting) lot buyer, and land intended for use as building sites would be assessed as such.

H.B. 550 helps enforce the intent of both the Green Belt law and the Subdivision and Platting Act.

House Bill 550, introduced by Representative John C. Vincent of Bozeman, would have amended Montana's differential assessment act to assure that subdivided land could not be assessed as agricultural land. The bill received a favorable report from the House Committee on Natural Resources but was killed on second reading on February 25, 1977, by a vote of 71 to 26.

Exhibit F

The following is an excerpt from an article which appeared in the Great Falls Tribune, February 17, 1977. Prepared by the Tribune's Capitol Bureau, it describes the public hearing held on H.B. 550 before the House Committee on Natural Resources:

> ...Rep. John Vincent, D-Bozeman, argued for passage of HB550 which would eliminate the farmland taxbreak which undeveloped subdivisions on agricultural land now enjoy. Current law provides that the land be taxed for actual use after building commences. Vincent said the intent of his bill is to prevent large subdividers from buying up agricultural land for subdivisions and using them as tax shelters. The current law encourages subdivision, he said. Opponents argued that Vincent's bill would actually encourage more rapid subdivision than is now occurring because subdividers would lose their tax break. The bill was referred to subcommittee.

House Bill 550, introduced by Representative John C. Vincent of Bozeman, would have amended Montana's differential assessment act to assure that subdivided land could not be assessed as agricultural land. The bill received a favorable report from the House Committee on Natural Resources but was killed on second reading on February 25, 1977, by a vote of 71 to 26.

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